

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STAG WILLIAMSPORT, LLC,

Plaintiff,

v.

BHN ASSOCIATES, LLC,

Defendant.

**Civil Action No.
1:21-cv-11958-NMG**

PLAINTIFF STAG WILLIAMSPORT, LLC’S MOTION FOR ENTRY OF DEFAULT

Pursuant to Federal Rule of Civil Procedure 55(a), Plaintiff STAG Williamsport, LLC (“STAG”) requests that a default enter against Defendant BHN Associates, LLC (“BHN”), on both STAG’s claims and BHN’s counterclaims, due to BHN’s failure to timely appear in this action.

BACKGROUND

This case is about the disposition of \$450,000.00 being held in escrow by this Court. On June 7, 2021, STAG entered into a contract for the sale of real estate with BHN. The contract required BHN to deposit certain funds into an escrow account (“Escrowed Funds”), which, in the event BHN defaulted, STAG was entitled to keep. In August of 2021, BHN, without justification, refused to close on the sale, and subsequently refused to allow the Escrowed Funds to be released to STAG.

In October 2021, STAG filed suit in Massachusetts state court, seeking the release of the Escrowed Funds and related attorney’s fees.¹ Since filing its Complaint, BHN has simply sought to delay the inevitable – first by failing to timely answers the complaint, then by filing frivolous motions to dismiss or transfer, then by simply ignoring all of their discovery responsibilities.

¹ On October 17, 2022, this Court granted a motion to have the escrow agent deposit the Escrowed Funds to this Court, and dismissing the escrow agent from this case. *See* Docs. 33 and 34.

On June 14, 2023, BHN ordered its counsel to cease its representation in this action. On June 27, 2023, Counsel for BHN filed their Motion to Withdraw as Counsel and Stay Proceedings (“Motion to Withdraw”). On July 11, 2023, Judge Magistrate Boal issued her Report and Recommendation in which she allowed the Motion to Withdraw. Doc. No. 68. The Report and Recommendation specifically stated that “BHN should be advised that failure to retain successor counsel may result in both a dismissal of its counterclaims and default judgment against it with respect to STAG’s claims.” *Id.* at p. 1. The Report and Recommendation also stated that “BHN is advised that if it does not obtain successor counsel and/or file a status report within the specified time frame, then STAG may file a motion seeking default on its claims, and/or other appropriate relief.” *Id.* at p. 3-4. On August 1, 2023, this Court adopted the Report and Recommendation. Doc. No. 72.

On August 16, 2023, BHN filed a Motion to extend the time for it to obtain local counsel until September 6, 2023, which this court granted. On September 6, 2023, BHN filed a report stating that it had obtained local counsel – but did not otherwise identify such counsel. As of today, no counsel has made an appearance for BHN.

ARGUMENT

“In this district, it is the rule that corporations cannot litigate *pro se*.” *Hasbro, Inc. v. Serafino*, 966 F.Supp. 108, 110 (D.Mass.,1997); L.R. 83.5.2(b) and 85.5.5(c). After nearly two years of delaying and obstructing progress in the matter, BHN’s counsel were forced to move to withdraw their representation. Upon granting the Motion to Withdraw, this Court clearly warned BHN that its failure to timely obtain, and have an appearance made by, successor counsel would result in the entry of default against it. Despite being granted an extension, BHN has failed to

timely enter an appearance by successor counsel. Accordingly, a default should be entered against BHN both on STAG's claims and BHN's counterclaims.

CONCLUSION

For the foregoing reasons, STAG respectfully requests that a default be entered against BHN.

Respectfully submitted,

STAG WILLIAMSPORT, LLC
By its attorneys,

/s/ Benjamin M. Greene
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Date: September 7, 2023

CERTIFICATE OF SERVICE

I, Benjamin M. Greene, hereby certify that on this 7th day of September, 2023, I caused a copy of the within document to be filed and served on all counsel of record via the electronic filing system for the U.S. District Court, District of Massachusetts.

Additionally, I caused a copy of the within document to be sent via first class mail to the Defendant at:

BHN Associates LLC
Attn: Mordy Wider
240 Adar Ct.
Monsey, NY 10952

/s/ Benjamin M. Greene
Benjamin M. Greene